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SUBJECT: KAZAKHSTAN: CIVIL SOCIETY PESSIMISTIC ON MADRID LAWS

REFS:

- A) ASTANA 2388
- B) ASTANA 2256

1. (U) Sensitive but unclassified. Not for public Internet.

2. (SBU) This is the second in a series of cables analyzing reactions to Kazakhstan's Madrid legislation.

3. (SBU) SUMMARY: On November 19, several leading NGOs shared their views on the draft laws on political parties, elections, and the media, which are currently being considered by the Mazhelis (parliament's lower house). They criticized the government for not going far enough with political liberalization, citing the religion law as an example, and called on the OSCE to press Kazakhstan for "greater pluralism." The Human Rights Bureau's representative, Evgeni Zhovtis, suggested using Kazakhstan's Path to Europe program as another "lever" for democratization. END SUMMARY.

4. (SBU) On November 18-19, a group of Astana-based Western diplomats met with leading NGOs to discuss the draft laws on elections, political parties, and the media, which are currently being considered by the parliament. The group met with Human Rights Bureau Head Evgeniy Zhovtis, Legal Policy Research Center (LPRC) Chair Vera Tkachenko, Freedom House representative Iva Dobichina, and Eurasia Foundation President Jeff Erlich. The group also met with Tamara Kaleyeva, head of Adil Soz, a local media-watchdog NGO, and several independent journalists.

CIVIL SOCIETY LEADERS SEE FLAWS IN THE LEGISLATION

5. (SBU) Adil Soz's Kaleyeva, who participated in the drafting of the media law, shared her view of shortcomings in the new legislation. In her opinion, the biggest issue is that the draft law has not lessened the registration hurdles for print media and has not fully decriminalized 1Q1. (NOTE: While the registration requirements for print media can be onerous, they have not stopped a lively opposition press from developing. END NOTE.) Kaleyeva also said that the few substantive changes, like dropping registration requirements for electronic media, "will have little effect on freedom of the press."

6. (SBU) The Human Rights Bureau's Evgeniy Zhovtis asserted that "since the whole concept of the legislation is wrong, there is little point in discussing particular problematic provisions of the laws." He told us that several NGOs made concrete proposals to the

government on amending the election law, such as including representatives of opposition parties in local election commissions, granting public access to electoral lists, allowing foreign NGOs to observe elections, and increasing the transparency of the tabulating process. "None of the provisions made it into the final law," asserted Zhovtis. On the law of political parties, Zhovtis believes that lowering the minimum number of signatures required for registration is not important. "What's important," he stressed, "is the end goal of the process -- do you afford the right to free association, or do you regulate it?" The current draft, in Zhovtis' opinion, regulates it.

#### RELIGION LAW A "WORRISOME" EXAMPLE

17. (SBU) The Legal Policy Research Center's Tkachenko emphasized that along with the Madrid legislation, another "worrisome" piece of legislation was close to becoming law. She stressed that the religion law should not be excluded from any conversation about Kazakhstan's liberalization, since it would severely limit religious freedom in Kazakhstan. (NOTE: The law passed the parliament on November 26 and is awaiting President Nazarbayev's signature (reftel A). END NOTE.) Overall, Tkachenko predicted that the Madrid legislation would not change Kazakhstan's political environment.

#### CALL FOR "CONCERTED MESSAGE" FROM OSCE MEMBERS

18. (SBU) Freedom House's Dobichina reported with Zhovtis that the Ministry of Foreign Affairs (MFA) called them soon after the package of amendments went to the parliament to ask for their assessments of the laws. The MFA representative was apparently eager to gather civil society views on the laws. When told that neither Zhovtis nor Dobichina had yet seen the draft legislation, the MFA asked that they share their assessment "as soon as it is ready." Zhovtis

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characterized the call as further evidence of the "divide" that exists in the government between "the old guard and the liberal wing," with the MFA falling squarely in the latter. The OSCE should support "the reformers" by sending a concerted message to the government "that the laws are insufficient." In Zhovtis' view, the "gradual change" approach to Kazakhstan's political liberalization "has brought no results," and the OSCE needs to press harder for "greater pluralism" in the country. He suggested that the Path to Europe, Kazakhstan's plan to establish greater ties with the European Union, could be used as "another lever" for democratization.

#### COMMENT

19. (SBU) Civil society leaders have consistently criticized the government for not going far enough with the Madrid legislation. The package of amendments, if adopted in its current form, would fall short of what civil society and the opposition would like, but it is nevertheless a step forward and an opportunity to push for more moves in the same direction. Pressing too hard, however, is unlikely to bring welcome results, as can be seen from President Nazarbayev's recent criticism of the EU for wanting to turn post-Soviet states into democracies at a pace far quicker than their own political development will allow. Persistent, patient, and private diplomacy, combined with encouragement of the liberal wing within the government, will be the most effective path to our goals.

MILAS